

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference B 14139.3 JL	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/050103	International filing date (day/month/year) 23 octobre 2003 (23.10.2003)	Priority date (day/month/year) 24 octobre 2002 (24.10.2002)
International Patent Classification (IPC) or national classification and IPC G01N 21/64		
Applicant COMMISSARIAT A L'ENERGIE ATOMIQUE		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12 mai 2004 (12.05.2004)	Date of completion of this report 21 March 2005 (21.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/050103

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-16 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_ 1-10 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
pages \_\_\_\_\_ 1/6-6/6 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR 03/50103

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	3, 4, 6, 9	YES
	Claims	1, 2, 5, 7, 8, 10	NO
Inventive step (IS)	Claims	1-10	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

### 2. Citations and explanations

#### 1 Document noted

1.1 Reference is made to the following document:

D1: US 6 010 867 A (KOBAYASHI)

#### 2 Novelty - PCT Article 33(2)

2.1 The present application does not meet the requirements of PCT Article 33(3), as the subject matter of claims 1, 2, 5, 7, 8 and 10 does not meet the requirement of novelty defined by PCT Article 33(2).

2.2 Document D1 describes (the references between parentheses relate to this document):

Device for testing at least one sample by optical detection of luminescence, comprising a site for receiving the sample (4, figure 2), the site being so located that the sample can receive luminescence excitation and emit luminescent light in an optical guide plane (3, figure 2), said device also comprising

collection means (1, figure 2) optically connected to the optical guide plane for picking up luminescent light; in addition, the device comprises means (12, figure 2) in the optical guide plane, for sending back to said collection means part of the luminescent light emitted in the optical guide plane and not directly picked up by the collection means.

2.3 Figure 2 of D1 shows a mirror 12 which reflects not only incident light but also fluorescent light (see column 3, lines 41 to 42 - "in figs. 1 to 3, full arrow indicates a laser beam, and dotted arrow indicates a fluorescence").

2.4 Thus the disclosure of document D1 anticipates the subject matter of device claim 1.

2.5 As regards the novelty of the dependent claims, document D1 also states that the detection means are arranged at the exit of the collection means (8, figure 5), that the collection means comprise an optical guide (1, figure 2), that the collection means comprise means for filtering the excitation light beam (7, figure 5), that the device comprises a plurality of sites for receiving samples (4, figure 2), and that the sample is a biological sample (abstract).

2.6 Therefore, the subject matter of claims 1, 2, 5, 7, 8 and 10 is not novel.